



Sales Tax Information for Public and Private and Elementary Secondary Schools

Utah State Tax Commission

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Sales and Use Tax General Information

Introduction

This publication is a general guide. It provides basic sales and use tax information, but is not all-inclusive. It includes Utah tax law and administrative rules written by the Utah State Tax Commission. Future changes to the laws or rules will supercede information in this document.

Utah Tax Code

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Utah Code, Title 59, Revenue and Taxation, is available free of charge at the Utah Legislature's homepage (see www.le.state.ut.us/~code/title59/title59.htm). The state makes every effort to maintain current information; however, published code found at LexisNexis may be more current than the information found at the state site.

What is Sales and Use Tax?

Sales Tax

Sales tax is a tax on the retail sale or lease of all tangible personal property and on certain services. Sales tax is collected by a Utah licensed retailer or seller, and is paid to the Tax Commission on monthly, quarterly or annual tax returns. For more specific information, refer to Utah Code §59-12-103 and Administrative Rules R865-12L, R865-19S, and R865-21U.

Use Tax

Use tax is a tax on amounts paid or charged for purchases of tangible personal property and for certain services where sales tax was due but not charged. The purchaser remits use tax directly to the Tax Commission. Examples of activities that trigger use tax liabilities include withdrawal of items from resale inventories and other consumption of goods or services purchased tax-free.

Use tax must be accrued and paid on certain purchases from unregistered out-of-Utah sellers. Some of the more common items for use tax reporting include advertising supplies, office or shop equipment, computer hardware and software, and office supplies.

Sales and use taxes are transaction taxes. This means the tax is not on the articles sold or furnished, but on the transaction, and the purchaser is the actual taxpayer. The seller is charged with collecting the tax from the purchaser and paying the tax to Utah.

In cases where the seller does not charge the tax, it becomes use tax and the purchaser is responsible to report and remit the tax.

Filing and Reporting Requirements

Sales Tax License

All retailers must have a Utah Sales Tax License and related account number. Application for a license and account number is made to the Tax Commission on a Utah State Business and Tax Registration form, TC-69 or online using OneStop Business Registration, found at business.utah.gov/registration.

Examples of businesses that typically must register for a sales tax license include: retailers selling tangible goods or services, wholesalers purchasing resale inventory, manufacturers, leasing companies, and consumers such as professional firms and construction contractors.

Sales tax licenses are not transferable.

How To Close a Sales Tax Account

Every sales tax license holder that discontinues business in Utah is required to notify the Tax Commission immediately in writing. Businesses may contact the Taxpayer Services Division of the Tax Commission for assistance in closing sales tax accounts. If the Tax Commission is not informed that the business has closed, the license holder may be assessed an estimated tax, including late penalties and interest.

How To Close an Outlet

If the account remains open, but an outlet location in Utah is closed, the sales tax license holder is required to notify the Tax Commission immediately in writing, identifying the effective date of the closure. Businesses may contact the Taxpayer Services Division of the Tax Commission for help in closing sales tax outlets. The closed outlet will no longer appear on the sales tax return generated and mailed to the account holder.

Notification of Liability

If you are purchasing a business, Utah Code §59-12-112 requires you to withhold enough of the purchase money to cover any taxes due and unpaid until the former owner of the business produces a receipt from the Tax Commission showing that all taxes have been paid, or a certificate showing no taxes are due. If you fail to withhold the required purchase money and the taxes remain due and unpaid 30 days after the business is sold, you will be personally liable for payment of the unpaid sales taxes of the former owner.

Filing Requirements

Nexus Filers

Nexus means a business entity has established a direct or representational presence within a particular state. This presence gives the state the right to require a seller to pay or collect and remit certain taxes. Businesses with Utah nexus must file sales tax returns even if they have no tax liability for a particular period.

Returns

Only one sales and use tax return is required for each filing period. Each return may include schedules that allow for multiple outlet sales and goods consumed to be reported on the return. If a seller is liable for sales-related taxes, such as transient room, tourism, waste tire, etc., a separate return must be filed for each period for each separate type of tax or fee. Returns are due on or before the last day of the month

following each filing period, unless the due date falls on a weekend or holiday. In that case, the return will be due the first working day following the end of the month.

The Tax Commission determines the filing frequency for sales and use tax returns. If your sales tax liability is less than \$1,000 per year, you may file annually. If your sales tax liability is \$1,000 or more but less than \$50,000 per year, you may file quarterly. If your sales tax liability is \$50,000 or more, you must file monthly. The Tax Commission will notify you if your filing frequency has changed.

Paper Returns

Once a license has been issued or a new tax imposed, the Tax Commission will mail a personalized return to each seller (unless the seller has requested no paper returns be mailed to them by the Tax Commission). However, if a seller does not receive a return, it is the seller's responsibility to obtain blank forms, file all appropriate returns, and pay the taxes by the due date. Returns must be filed even if the account holder has no tax liability for a particular filing period.

Online Sales Tax Return

Sellers have the option of filing their sales and use tax returns and schedules online using the TC-61 web application found at utah.gov/salestax. The Tax Commission will assign a PIN and print it on the TC-61 return that will allow access to the online application.

PaymentExpress

Whether periodic sales tax returns are filed electronically or on paper, sales tax can be electronically remitted to the Tax Commission using PaymentExpress available at paymentexpress.utah.gov.

PaymentExpress will accept payment for most tax types, including sales tax. Payment can be made by credit card (American Express, Discover, or MasterCard) or by electronic check (direct debit to a checking or savings account).

A convenience fee is applied to PaymentExpress transactions to cover costs associated with the electronic payment service. The convenience fee is \$1 for an electronic check payment. For credit card payments, the convenience fee varies depending on the amount paid. A complete convenience fee table is available on the PaymentExpress website in the Frequently Asked Questions section.

PaymentExpress is only for the payment of taxes and other amounts due. Be sure to file any tax return separately.

Electronic Funds Transfer (EFT)

If your annual sales tax liability is \$96,000 or more, payment must be made by Electronic Funds Transfer (EFT). EFT payments can be completed up to 30 days before the tax filing due date and withdrawn on the payment date you select. If you wait until the tax filing due date to make a payment, the payment must be completed by 7:00 p.m. Mountain Time, with a settlement date no later than the next business day. This account must be set up prior to making your payment. Contact the Tax Commission for information.

Caution: Filers who are required to pay by Electronic Funds Transfer (EFT) should not use the Tax Commission's web-based payment system (PaymentExpress) for current returns. Payments made online by credit card or electronic check do not meet EFT filing requirements. Sellers required to pay by EFT that use the online payment system for current returns will lose their seller discount. However, EFT filers may pay past-due liabilities online using PaymentExpress.

Seller Discount

Persons filing monthly sales tax returns are entitled to a seller discount equal to 1.31 percent of the combined sales tax. Persons filing monthly tourism tax returns are entitled to a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county. Quarterly and annual filers are not eligible for the seller discount.

Penalties

The penalty for failure to file a tax due return by the due date is the greater of \$20 or 10 percent of the unpaid tax. In addition, if a tax balance remains unpaid 90 days after the due date, a second penalty, the greater of \$20 or 10 percent of the tax balance, will be added for failure to pay timely. The penalty for failure to pay tax due as reported on a timely filed return, or within 30 days of a notice of deficiency, is the greater of \$20 or 10 percent of the tax due. In addition, monthly returns filed late or underpaid returns will result in the loss of seller discount. For more information, see Publication 58, Utah Interest and Penalties at tax.utah.gov/forms/.

Purchasers or lessees who claim sales and use tax exemptions for purchases or leases of manufacturing machinery and equipment, normal operating replacements or semiconductor fabricating, processing, research or development materials are required to report the amount of such purchases or leases on the appropriate informational line of their periodic sales and use tax returns. Failure to comply with these reporting requirements may subject the responsible party to a penalty of the lesser of \$1,000 or 10 percent of the sales tax that would have been imposed if the exemption had not applied.

Interest

Interest will be assessed at the rate prescribed by law from the original due date until paid in full. For information, taxpayers may refer to Publication 58, Utah Interest and Penalties at tax.utah.gov/forms/, or call the Utah State Tax Commission.

Refund

A taxpayer can file a claim for a credit or a refund of an overpayment within three years of paying the tax, even though the taxpayer did not object to a notice of deficiency or a notice of assessment by the Tax Commission. If the Tax Commission denies this claim for credit or refund, the taxpayer may file a petition for agency action. A taxpayer may not, however, file a claim for a credit or a refund on a tax deficiency that has been previously adjudicated.

Each transaction for which a sales tax refund is requested must include: (1) requestor's name; (2) requestor's account number or federal ID number; (3) seller name; (4) seller account number; (5) seller location; (6) date of sale/purchase; (7) description of item(s) sold/purchased; (8) taxable amount; (9) tax paid; (10) basis for exemption from sales and use tax; (11) sales tax rate(s) and dates of remittance to Utah State Tax Commission; (12) copy of invoice(s) that show tax collected; and (13) copy of check(s) that verify payment of the invoice.

Record Keeping Requirements

From Tax Commission Rule R865-19S-22

Every retailer, lessor, or person doing business in Utah is required to keep complete records used to determine the amount of sales and use tax for which they are liable. Records must be retained for three years from the filing date of the tax returns. All records shall be open to the Tax Commission or its authorized agents for examination at any time.

These records shall:

- Show gross receipts from sales or rental payments from leases of tangible personal property, or services performed in connection with tangible personal property made in Utah regardless of whether the retailer considers the receipts to be taxable or non-taxable.
- Show deductions and exemptions allowed by law and claimed in filing sales tax returns.
- Show bills, invoices, or similar evidence of all tangible personal property purchased for sale, consumption, or lease in Utah.
- Include the normal account books maintained by an ordinarily prudent business person, together with supporting documents of original entry such as: bills, receipts, invoices, and cash register tapes. All schedules or working papers used in the preparation of tax returns must also be maintained.

Note: Any automated data processing (ADP) tax accounting system must be capable of reproducing visible and legible records for tax liability verification. General ledgers with source references should coincide with financial reports for each tax period. All supporting documentation should be easily accessible. Additional record keeping requirements can be found in Tax Commission Rule R861-1A-35.

Reminders

This information is only a summary and does not contain all sales or use tax laws and rules.

1. Sales tax must be collected on all taxable sales of tangible personal property to the final consumer.
2. You must file a sales and use tax return for every period, whether or not tax is due for a particular filing period.
3. If you change business locations, or add or close any outlets, you must notify the Tax Commission in writing.
4. If you discontinue business, you must notify the Tax Commission in writing within thirty days of the final date you were required to collect sales tax.
5. You must retain your records for three years.
6. Records are subject to audit by a Tax Commission representative.
7. Sales tax licenses are not transferable.
8. Merchandise purchased tax free but used or consumed by you or your company must be reported on the line provided on the sales and use tax return. You must pay use tax on goods you or your company consume.
9. A completed exemption certificate from your exempt customers must be retained in your files to verify nontaxable sales.
10. Interstate sales must be documented with a bill of lading or other proof of shipment. The terms of the sale must require shipment or delivery of the property across Utah's boundaries by the seller.
11. Tax must be rounded to a whole cent by rounding up to the next cent whenever the third decimal place is greater than four.

Sales-based Tax Types

Tax rates vary from one community to another depending on the taxes imposed by the individual community. Tax rates are available on the Tax Commission website at tax.utah.gov/sales/rates.html.

Combined Sales Tax Rate

The following taxes are included in the combined sales tax rate and are filed on the TC-61 Sales and Use Tax Return:

State Sales and Use Tax

The state sales and use tax rate is 4.75 percent and applies to taxable transactions in all locations within Utah.

Effective January 1, 2007 the state sales tax rate for food and food ingredients will be 2.75 percent. Food and food ingredients means substances sold for ingestion or chewing by humans that are consumed for the substance's taste or nutritional value. Food and food ingredients do not include alcoholic beverages, tobacco or food prepared for immediate consumption.

Local Option Sales and Use Tax

A local rate of 1 percent is imposed on taxable transactions within a community as established by local ordinance. This tax applies to the same transactions as the state sales and use tax.

County Option Sales and Use Tax

A county may impose a tax of .25 percent. This tax applies to the same transactions as the state sales and use tax.

Resort Communities Tax

A qualifying resort community may impose a tax of up to 1.5 percent on the sale, use or rental of taxable goods and services within the resort community, and on the purchase of items subject to the use tax, i.e., items for use, storage, or other consumption within the jurisdiction. A community qualifies for the resort communities tax if transient room capacity in the community is greater than or equal to 66 percent of the permanent population of the community. The resort communities tax, if imposed, applies to sales subject to sales and use tax and is included in the combined tax rate.

Sales of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes are exempt from resort communities tax, but are subject to the remaining portion of sales and use tax. This exemption, however, does not apply to trailers, off-highway vehicles, snowmobiles, truck-mounted campers, etc.

Rural Health Care Facilities Tax

Qualifying rural counties or cities may adopt a rural hospital tax of up to 1 percent. The tax is imposed on the sale of taxable goods and services sold within the adopting jurisdiction, and on the purchase of items subject to the use tax, i.e., items for use, storage, or other consumption within the jurisdiction. This tax is part of the overall sales and use tax in certain localities, and is used to fund rural county and city hospitals, and qualified nursing homes.

Public Transit Tax

Counties, cities or districts that have a public transit system may adopt a public transit tax of up to .5 percent. Public transit tax applies in the same manner as the local sales and use tax.

Highways Tax

Counties, cities or communities that have not already adopted the public transit tax may adopt a highways tax of .25 percent. The highways tax applies in the same manner as the local sales and use tax.

Recreational Facilities and Botanical, Cultural, and Zoological Organizations Tax

Utah counties, cities or towns may impose a tax of .1 percent on all taxable sales and services in the county to fund these types of organizations.

Town Option Sales and Use Tax

Qualifying towns, as described in Utah Code §59-12-1302(2), may impose the town option sales and use tax of up to 1 percent. This tax applies in the same manner as the local sales and use tax. Currently, only the town of Snowville has imposed this tax.

Related Taxes and Fees

The following sales-related taxes and fees are filed on separate returns:

Tourism Tax

Where adopted, this tax is imposed on the following types of transactions:

- A restaurant tax of up to 1 percent may be imposed on all prepared foods and beverages sold by restaurants.

The term “restaurant” is defined as any retail establishment, other than a theater, whose business is the sale of foods and beverages for immediate consumption. Restaurant includes dinner theaters. See Utah Code §59-12-602(4) for more information.

Exception: In counties that have adopted the tourism tax, it does not apply to sales of food from deli areas, pizza take-out counters or salad bars within a grocery store or convenience store whose primary business is the sale of fuel or food not prepared for immediate consumption. These sales are exempt from the tourism tax even if the store has seats or stools for customers. However, if a grocery store or convenience store has a full-service restaurant, the tourism tax is due on sales in that restaurant.

- A tourism tax of up to 7 percent may be imposed on all short-term motor vehicle rentals or leases. This applies to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, except:
 - leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle that is being repaired pursuant to a repair or insurance agreement;
 - leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 or more pounds; or
 - leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by an exemption certificate, such as form TC-721, and retained by the lessor.

- In addition to the transient room tax discussed below, a county of the first class (counties with a population of 700,000 or more) may impose an additional tax of .5 percent on every rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days. This is reported and remitted on form TC-61T.
- Persons filing monthly returns are entitled to a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county.

Tourism tax is reported on form TC-61FV for monthly filers or form TC-61F for quarterly or annual filers.

Motor Vehicle Rental Tax

A statewide motor vehicle rental tax of 2.5 percent is charged on all short-term motor vehicle rentals or leases. This is in addition to the tourism tax, if adopted, of up to 7

percent on all short-term motor vehicle rentals or leases. The statewide motor vehicle rental tax of 2.5 percent is not eligible for a seller discount.

The statewide motor vehicle rental tax, and the tourism tax if adopted, apply to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, **except:**

- leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle being repaired pursuant to a repair or insurance agreement;
- leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 or more pounds; or
- leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by an exemption certificate, such as form TC-721, and retained by the lessor.

Motor vehicle rental tax is reported on form TC-61FV for monthly filers or form TC-61F for quarterly or annual filers.

Transient Room Tax

Utah counties may impose a transient room tax of up to 3 percent (effective October 1, 2006 up to 4.25 percent) on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days. The transient room tax, if imposed, is charged in addition to sales tax and in addition to other applicable taxes adopted in the community. The transient room tax does not apply to charges for meeting rooms.

Some counties have also enacted a tourism tax on lodging, as noted above.

Each county may elect to collect the tax itself or contract with the Tax Commission to collect it. The published rate chart (see tax.utah.gov/sales/rates.html) identifies those counties that elect to collect the tax themselves.

Transient room tax is reported on form TC-61T, unless it is collected directly by the county.

Municipality Transient Room Taxes

In addition to the county-imposed transient room tax and the tourism tax on room rents, municipalities may impose taxes of up to 1.5 percent on rents charged for the same accommodations that are subject to the Transient Room Tax.

Each municipality may elect to collect the tax itself or contract with the Tax Commission to collect it. The published rate chart (see tax.utah.gov/sales/rates.html) identifies those municipalities that elect to collect the tax themselves.

Municipality transient room tax is reported on form TC-61T, unless it is collected directly by the municipality.

Convention Facilities Tax

The legislative body of a county within Utah that is of the first class (counties with a population of 700,000 or more) may impose a 1.25 percent sales tax on accommodations and services through Sept. 30, 2006, when the accommodations and services are regularly rented for less than 30 consecutive days. Revenue from the tax must be used for purposes relating to convention facilities.

Waste Tire Recycling Fee

A waste tire recycling fee of \$1 per tire with rim sizes up to and including 24½ inches is imposed on each purchase of new tires. The waste tire recycling fee is paid by the consum-

er to the tire retailer at the time of purchase. Both new and used vehicle dealers (including trailer and off-road vehicle dealers, in addition to automobile, truck and recreational vehicle dealers) are considered tire retailers for this purpose. The fee applies to all tires sold with a new vehicle. Dealers, at their option, may pay the fee to a tire dealer, provided they also pay sales tax on the purchase.

Sales tax exemptions do not apply to the recycling fee. Sales of tires or tires mounted on vehicles sold to governmental agencies or other normally exempt institutions are not exempt from this fee. The fee itself is not subject to sales tax. The fee does not apply to used tires, bicycle tires, or any tires attached to devices propelled by human power, nor does it apply to tires sold and delivered out of Utah. Tire retailers are allowed to retain 2.5 percent of the fees collected and reported to cover the cost of collection.

Waste tire recycling fee is reported on form TC-61W.

Other Information

The following miscellaneous taxes and fees may also apply to certain sellers. For more information, contact the Tax Commission.

- Motor fuel, aviation fuel, and special fuel taxes
- Lubricating oil fee
- Beer, cigarette, and tobacco products taxes
- Municipal energy sales and use tax
- Emergency services telephone charge (911 and poison control)
- Royalty payment on unprocessed brine shrimp eggs
- Multi-channel audio and video tax
- Sexually explicit business and escort service tax
- Municipal telecommunications license tax

Calculating Sales Tax

Definitions

Purchase Price and Sales Price (UCA §59-12-102(66))

Purchase price and **sales price** mean the total amount of consideration valued in money and for which tangible personal property or services are sold, leased, or rented.

Purchase price and sales price include:

- the seller's cost of the tangible personal property or services sold;
- expenses of the seller, including the cost of materials used; a labor cost; a service cost; interest; a loss; the cost of transportation to the seller; or a tax (including federal excise tax) imposed on the seller;
- a charge by the seller for any service necessary to complete the sale.

Purchase price and sales price do not include:

- a delivery charge;
- an installation charge;
- a discount in a form including: cash or term taken by a purchaser, or coupon that is allowed by a seller and that is not reimbursed by a third party;
- the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser:

- a. the amount of a trade-in;
- b. the following from credit extended on the sale of tangible personal property or services: separately stated interest charges; financing charges; or carrying charges; or
- c. a tax or fee legally imposed directly on the consumer.

Tangible Personal Property

Tangible personal property is property that may be seen, weighed, measured, felt, touched, or is in any manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, prewritten software, and digital and electronic goods.

Real Property

Real property is classified as any right, title, estate, or interest in land, including all buildings or structures on the land.

Real property includes construction materials that typically lose their separate identity as personal property once incorporated into the real property. These include lumber, bricks, nails and cement used to construct buildings or structures on the land, as well as fixtures such as furnaces, built-in air conditioning systems, built-in appliances, or other items added to or incorporated into real property.

Tangible Personal Property Permanently Attached to Real Property

Tangible personal property is classified as permanently attached to real property if (1) the attachment is essential to use the tangible personal property, and (2) the tangible personal property will remain attached over its useful life. This includes attaching an accessory to the tangible personal property if it is essential to the operation of the tangible personal property and is attached solely for that purpose. This classification is further supported if (1) detachment would cause substantial damage to the tangible personal property, or (2) detachment would require substantial alteration or repair of the real property. The permanently attached tangible personal property retains its classification even if it is temporarily detached for repair or renovation onsite.

The permanently attached classification does not include (1) attaching portable or movable tangible personal property for convenience, stability, or for an obvious temporary purpose, or (2) detachment for repair or renovation other than onsite.

Also excluded from this classification is a refrigerator, washer, dryer, stove, television, computer or telephone if the attachment to real property is only through a line that supplies water, electricity, gas, telephone or cable.

Delivery Charges

Delivery charges means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. Purchase price and sales price of tangible personal property do not include delivery charges if separately stated.

Installation Charges

Installation charges means charges for permanently installing tangible personal property to real property. Installation charges do not include charges for repairs or renovations of tangible personal property. Purchase price and sales price of tangible personal property do not include an installation charge if separately stated.

Sales of real property are nontaxable. For tangible personal property that becomes part of the underlying realty upon installation, the transaction to purchase and install the tangible personal property is considered the sale of real property and, accordingly, is nontaxable. The contractor is considered to be the user of the materials and is responsible for paying sales and use tax.

Repair Charges

Repair charges means repair or renovation of tangible personal property that is not permanently attached to real property or attaching tangible personal property to other tangible personal property.

Charges for labor to repair, renovate, wash, or clean tangible personal property are subject to sales tax. Parts used to repair or renovate tangible personal property, whether or not the parts are actually used, are also subject to sales tax.

Charges for labor and parts used to service, repair, or renovate real property are not subject to tax. For real property repairs, the contractor is considered to be the user of the materials and is responsible for paying sales and use tax.

Taxes or Fees Imposed on the Seller

Current Utah law allows municipalities to impose and collect a license fee or tax on any business within the municipality. Examples of city-imposed taxes include a gross receipts tax on all businesses within the city and taxes directed at a particular category of business, such as innkeepers. City-imposed taxes (other than sales and use taxes imposed under the Utah Sales and Use Tax Act) must be included in the taxable sales reported on the state sales and use tax return. For example, a seller makes sales in a city that has imposed a two percent gross receipts tax on revenues. City and state taxes are calculated as follows.

Taxable sales	\$100.00
City imposed gross receipts tax @ 2%	<u>2.00</u>
Amount subject to state and local taxes	\$102.00
Applicable sales tax rate @ 6.125%	<u>x.06125</u>
State and local sales taxes remitted to the state	\$6.25
Transaction total (item cost plus taxes)	\$108.25

Determining Tax Base

Taxable Sales

Sales of tangible personal property and certain services to final consumers are taxable. The following transactions are taxable unless a specific exemption applies:

- Retail sales or purchases of tangible personal property made within Utah.
- Tangible personal property stored, used, or consumed in Utah.
- Rentals and leases of tangible personal property if the situs (location) of the tangible personal property is in this state, the lessee took possession of the tangible personal property in this state, or the tangible personal property is stored, used, or otherwise consumed in this state.
- Labor to repair, renovate, wash, clean, and attach tangible personal property in connection with other tangible personal property. This includes maintenance agreements.
- Laundry and dry cleaning services, other than coin-operated laundry and dry cleaning services.

- Admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity. User fees include charges for access to a video, video game, television program, or cable or satellite broadcast, if that access occurs at any location other than the individual's residence.
- Use of assisted amusement devices when the device or ride is started and stopped by an individual who is not the purchaser or renter of the device and is performing at the direction of the seller.
- Assisted cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual who is not the purchaser of the service and is performing at the direction of the seller.
- Tourist home, hotel, motel, or trailer court accommodations and services regularly rented for less than 30 consecutive days.
- Telegraph services and intrastate telephone service.
- Meals at restaurants or other eating places.
- Sales for commercial use of gas, electricity, heat, coal, fuel oil, or other fuels.
- Sales for residential use of gas, electricity, heat, coal, fuel oil, or other fuels are taxed at the state rate of 2 percent plus any local and/or public transit tax applicable.
- Sales of prepaid telephone calling cards, including vending machine sales of prepaid telephone calling cards.
- Memberships that entitle the purchaser to discounted or free merchandise or services of a type subject to the sales tax. Examples include memberships allowing the card holder to enter a facility and make purchases of merchandise at the stated price without any additional markup, and video memberships that allow members to rent videos at half price. All purchases made with these membership cards are subject to sales tax at the time of purchase unless a specific exemption applies.

Note: For more information on taxable sales and purchases, refer to the Additional Information section.

Determining Tax Rate (Sourcing)

Sourcing is defined as attributing a sale to a specific taxing jurisdiction in order to determine the tax rate to charge.

For sellers with one or more fixed places of business, sales are sourced to the place of business where the sales occur, regardless of whether the goods are delivered. For sellers with a non-fixed place of business (e.g. vending machine operators, mobile tool companies, etc.), sales will be sourced to where the sales take place. If a business sells merchandise that is shipped from outside Utah direct to a consumer in Utah, and if the seller engages in business in Utah (has nexus), then the sale is sourced to the location of the purchaser.

Tax Rate Changes

The Tax Commission will provide sellers with advance notice of rate changes by publishing the information on its website at tax.utah.gov/sales/rates.html. This site contains a list of rate changes and the current tax rate chart.

Tax rates and jurisdiction boundaries may change only at the beginning of a calendar quarter and will be posted 60 days prior to the effective date. Failure to receive notice does not relieve a seller of the obligation to collect sales and use tax at the correct rate.

Rate changes for services covering a period starting before and ending after the statutory effective date will be as follows:

- For a rate increase, the new rate applies to the seller's first billing period starting on or after the effective date.
- For a rate decrease, the new rate applies to the seller's bills issued on or after the effective date.

Example 1

A local dealer arranged an automobile lease contract for 36 months, and it accommodated the customer's wish that the payment be made mid-month. Halfway through the contract period, the sales tax rate increased, effective Oct 1, 2006, which increased the monthly lease payment. The payment made on Sep 15, 2006, for the period Aug 16 to Sep 15, was subject to the old tax rate. Since the next payment period, due Oct 15, was for the period that started Sep 16, before the rate went into effect, it was taxed at the old rate, even though the payment was made after the new rate went into effect. However, the following payment, due Nov 15, was for a period (Oct 16 to Nov 15) that started after the new rate went into effect, so was subject to the new rate, and therefore the customer paid the higher rate.

Example 2

Using the same scenario above, instead of a tax rate increase there was a tax rate decrease effective Oct 1. The payment due on Sep 15 was at the old higher rate. However, the payment due Oct 15 was at the new lower rate since the bill was issued after the rate went into effect, even though the period started before the effective date. The October and all subsequent bills were taxed at the new lower rate.

Sales and Use Tax Exemptions

Utah law provides some exemptions from sales and use tax. Some of the more common exemptions are outlined below. For complete details on exemptions, refer to Utah Code §59-12-104. If a sale qualifies for an exemption that is either entity-based or use-based, the seller must obtain standard exemption information from the purchaser. Exemption information may be collected by the seller either electronically or on Utah State Tax Commission form TC-721, Exemption Certificate. If captured electronically, the same information for the specific exemption that is on form TC-721 must be retained. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used. Purchasers and sellers are allowed to use substitute forms if they contain the same information as Utah State Tax Commission form TC-721.

If the exemption is product based, no exemption certificate is necessary.

Entity-based Exemptions

An entity-based exemption is determined by who purchases or sells the product. An exemption certificate is required.

The following are exempt:

- Sales to United States and Utah government agencies. Currently, sales of construction materials to most Utah government agencies are exempt only if installed by the agencies' employees. Construction materials purchased by or on behalf of public elementary and secondary schools are exempt from the sales tax. The construction materials must be clearly identified and segregated, and they must be installed or converted into real property owned by the school. See Tax Commission Rule R865-19S-23 for information relating to documentation of sales to government agencies.

To qualify as a sale made to a U.S. or Utah government agency, the purchase must be made with the government entity's funds. A purchase does not qualify for this exemption if a government agency employee pays for the purchase with personal funds, even if the employee is reimbursed for the purchase by the government agency. Government employees traveling on official business are NOT exempt from these taxes unless they present:

- a properly completed exemption certificate;
- a check, purchase order, or voucher supplied by the U.S. or Utah government agency; or
- a U.S. government credit card (also called SmartPay cards). For detailed information on Federal government credit cards, please refer to FTA bulletin B-07/02, which can be found at www.taxadmin.org/fta/rate/b-0702.pdf

The sales tax exemption for purchases by Utah state and local government entities does NOT apply to purchases by a state other than Utah or to purchases by any local government entity located outside of Utah. Utah government purchases of items, other than travel, are tax exempt if purchased with a Utah state purchasing card or paid with a Utah state check. Purchasing cards are issued by US Bank. The cards display the Utah state seal, include the words "State of Utah Tax Exempt" and are imprinted with the individual purchaser's name and Utah state agency. While sellers are required to maintain evidence that a purchase qualifies for the sales tax exemption as a sale to the federal or Utah State government, this requirement is satisfied if the seller maintains a record of the qualifying credit card number, a copy of the government entity check, purchase order, or voucher, or a properly completed and signed form TC-721, Exemption Certificate.

- Sales made to or by:
 - an area agency on aging; or
 - a senior citizen center owned by a county, city or town; and
 - sales made by a senior citizen center that contracts with an area agency on aging.
- Certain enrolled members of Native American tribes (including the tribe itself) may purchase tax free if:
 - the member has a tribal card showing a Federal Bureau Number;
 - the sale is to an enrolled tribal member and delivery is taken on the member's own reservation (in the case of the Ute Indian Tribe, the sale must be made on or delivery must be made to tribal trust lands within the Uintah and Ouray reservations); and
 - in the case of sales to the tribe itself, a purchase order, exemption certificate, or similar evidence of tribal identity must be presented.

Sales of tangible personal property made off the reservation to enrolled members of the tribe are taxable. They are exempt from tax only if delivery is made to the reservation by the seller or a licensed common carrier.

- Foreign diplomats – Certain foreign diplomatic employees are exempt from sales tax to varying degrees. These diplomatic personnel are issued tax exemption cards by the U.S. Department of State. The cards are color-striped, indicating the type and/or amount of sales tax exemption. Bearers of cards with a green stripe are not exempt from taxes on hotel rooms. Sellers are instructed to retain a photocopy of the card for evidence of exemption. The cards are not valid to make exempt purchases of telephone service or other utility services; the U.S. Department of State issues special exemption certificates for such purposes.
- Feed, seed, baling ties, etc. sold to commercial agricultural producers.
- Sales of tangible personal property used or consumed primarily and directly in farming operations. Charges for labor and/or parts (including lubricating oil, antifreeze or other supplies) used to repair or maintain off-road machinery and equipment used primarily and directly in agricultural production are also exempt.
- Sales of electricity and fuel for industrial use as defined in Utah Code §59-12-102.
- Sale or lease of semiconductor fabricating, processing, research or development materials.
- Sales relating to schools and fundraising.
- Sales to religious or charitable institutions. In the case of sales of \$1,000 or more, or sales made pursuant to a contract between the seller and the religious or charitable institution, the exemption shall be at the point of sale. In all other cases, the exemption shall be in the form of a refund of sales or use taxes paid at the point of sale made by the religious or charitable institution directly to the Tax Commission.

To be eligible for the exemption, the organization must be recognized as exempt under Section 501(c)(3) of the Internal Revenue Code, and must have obtained a sales tax exemption number from the Tax Commission. Religious and charitable organizations may apply to the Tax Commission for a refund of sales taxes paid by completing form TC-160.
- Sales of construction materials to a religious or charitable institution or to a contractor purchasing on behalf of a religious or charitable institution.

Use-based Exemptions

A use-based exemption is determined by the purchaser's use of the product. An exemption certificate is required.

The following are exempt:

- Sales of certain vehicles for exclusive use outside of Utah.
- Property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product.
- Sales for resale or lease. In addition, the lease of tangible personal property is exempt if it meets all of the following conditions:
 - the property is part of a sale-leaseback transaction;
 - sales or use tax was paid on the initial purchase of the property; and

- the leased property will be capitalized and the lease payments will be accounted for as payments made under a financing arrangement.
- Purchases of tangible personal property upon which a sales and use tax was paid to another state are exempt, except if the tax paid was lower than Utah's rate. If lower than Utah's rate, the purchaser must pay the difference. No adjustment or credit is allowed if the tax paid was greater than Utah's rate.
- Purchases of machinery and equipment used for normal operating replacements by a cogeneration facility as defined in Utah Code §54-2-1, or a qualified manufacturer or scrap recycler described in the Standard Industrial Classification Manual (SIC) classification 2000-3999. Purchasers of the qualifying machinery and equipment that fail to report this on the informational line of the Sales and Use Tax Return shall be penalized the lesser of \$1,000 or 10 percent of the sales and use tax that would have been imposed if the exemption had not applied.
- Normal operating repair or replacement parts with an economic life of three or more years that are used in Utah by a cogeneration facility as defined in Utah Code §54-2-1 or a qualified manufacturer or scrap recycler described in the Standard Industrial Classification Manual (SIC) classification 2000-3999.
- Charges for labor to repair or renovate tangible personal property are exempt from sales and use tax if the parts used in the repair or renovation are exempt from sales and use tax.
- Parts used in the repair or renovation of the following exempt tangible personal property:
 - tooling or equipment used or consumed exclusively in the performance of an aerospace or electronics industry contract with the United States government;
 - tangible personal property used or consumed primarily and directly in farming operations;
 - snow making equipment, ski slope grooming equipment, and passenger ropeways;
 - hearing aids and hearing aid accessories.
- Sales of nonreturnable containers, labels, bags, shipping cases, and casing to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by the manufacturer, processor, wholesaler, or retailer.
- Purchases of lists or databases containing names and addresses that are used to send direct mail.
- Purchases or leases by a telephone service provider of equipment, machinery, or software are exempt if they have a useful economic life of one or more years and are used for the following telecommunication purposes:
 - enabling or facilitating;
 - 911 service;
 - maintenance or repair;
 - switching or routing; or
 - transmission.

Product-based Exemptions

A product-based exemption is based on the description of a product and is not based on who purchases the product or how the purchaser intends to use the product. Product-based exemptions do not require an exemption certificate.

The following are exempt:

- Isolated or occasional sales, if the sale is made by a person not regularly engaged in the business of selling that type of tangible personal property. The exemption does not apply to sales of tangible personal property for resale or the sale of a vehicle or vessel required to be titled or registered in Utah.
- The amount paid for a drug. A drug is defined as a compound, substance or preparation that is intended for the diagnosis, cure, mitigation, treatment or prevention of disease or is intended to affect the structure or function of the human body. Food, dietary supplements, alcoholic beverages, and prosthetic devices are not considered drugs.
- Sales or rentals of durable medical equipment, including parts used to repair the equipment and replacements.
- Sales or rentals of mobility enhancing equipment that is primarily used to provide or increase the ability to move from one place to another for a person with limited mobility.
- A prosthetic device, including repair or replacement parts. Corrective eyeglasses, contact lenses, hearing aids or dental prostheses are not considered prosthetic devices.
- Sales of hearing aids and hearing aid accessories, except batteries, and charges for labor and/or parts used in the repair or renovation of hearing aids and hearing aid accessories. Sales of hearing aid batteries are taxable.
- Forty-five percent of the sales price of a new manufactured home and 100 percent of the sales price of a used manufactured home.
- Fees charged for unassisted amusement devices.
- Sales through unassisted car washes and dry cleaning and laundry machines.
- Interstate sales delivered by common carrier or the seller to a point outside of Utah. A copy of the bill of lading, freight bill, form TC-757 or other evidence of out-of-Utah delivery must be kept by the licensed seller or retailer. If the property is delivered in the state of Utah to a consumer, the tax applies, regardless of its removal from Utah. See Tax Commission Rule R865-19S-44.
- Motor fuels and special fuels subject to Utah state fuel excise tax.
- Sales of hay.
- Exclusive sale of seedling plants, or garden, farm, or other agricultural produce, if sold during the harvest season by the producer, an employee of the producer, or by a member of the producer's immediate family.
- Sales of telephone service charged to a prepaid telephone calling card.
- Sales of newspapers or newspaper subscriptions.
- Sales of water in a pipe, conduit, ditch, or reservoir.
- Room and trailer space rentals for 30 consecutive days or more.
- Sales of currency or coinage that constitute legal tender of the United States or of a foreign nation.
- Sales of an ingot, bar, medallion, or decorative coin having a gold, silver, or platinum content of 80% or more and that does not constitute legal tender of any nation.
- Admissions to higher education athletic events.
- Sales of food and food ingredients, prepared food or alcoholic beverages by a church or a charitable institution if the items are not available to the general public.
- Sales of food and food ingredients, prepared food or alcoholic beverages by an institution of higher education if the items are not available to the general public and are prepaid as part of a student meal plan offered by the institution of higher education.
- Sales of food and food ingredients, prepared food or alcoholic beverages provided at a medical facility or a nursing facility for inpatient meals. See Tax Commission Rule R865-19S-61.

Additional Information

Goods Consumed by the Seller

Items consumed by the seller are subject to use tax on the amount of the seller's cost of the items, not the selling price. Items consumed by the seller include:

- items taken from a seller's inventory and used by the seller;
- samples given away for advertising; and,
- products consumed by employees without payment.

When making purchases for store use from local businesses, tax should be paid at the time of purchase. For example, office supplies and equipment, such as labels for internal accounting, cash register tapes, returnable containers, and furniture are taxable at the point of sale.

The seller may purchase grocery bags and sacks and other non-returnable packaging material tax free that go out the door with the customer.

No tax is due on items discarded because of spoilage, broken packaging, and similar incidents, because they are not considered as consumed by the seller.

The purchase of printed advertising inserts is taxable unless the inserts contain the name and publication date of the newspaper distributing the inserts and are included in and distributed with the newspaper. See Tax Commission Rule R865-19S-65.

Coupons and Rebates

Coupons and rebates are handled in the following manner:

- Coupons for which a seller is reimbursed by a third party, such as a manufacturer or distributor, do not reduce the amount subject to sales tax. The amount subject to sales tax is the sales price of the item before the value of the coupon has been deducted.
- An in-store coupon or a coupon issued by a seller for which no reimbursement by a third party is received is considered a reduction in the sales price. The taxable amount is the net amount paid for the item after deducting the value of the in-store coupon.
- Amounts of manufacturer's rebates, whether paid to the purchaser or retained by the dealer as a down payment, are not subject to tax.

Premiums and Gifts

A premium or gift given away with the sale of a product subject to tax is considered part of that sale, and the purchase of the premium or gift by the retailer is not taxable. Items given away without requiring a specific purchase and items given away as advertising are considered consumed by the retailer and the retailer must pay tax on the retailer's cost of those items.

Returned Merchandise

A customer who receives credit for returned merchandise is entitled to a refund of the sales tax. If a customer is given a partial refund or allowance, the customer is entitled to a refund of sales tax on the portion of the original sales price refunded.

Returned Checks and Bad Debts

Bad debts may be claimed only by a seller. A seller is entitled to a sales tax adjustment for returned checks and bad debts. Nontaxable amounts, such as cash back to the customer and exempt charges, must be deducted from the total amount of the returned check or bad debt amount to arrive at the net write-off amount. The amount of the adjustment to be claimed on the sales tax return is determined by dividing the net write-off amount by one (1) plus the tax rate adopted in the community at the time of sale.

For example, if the net write-off amount is \$100 and the tax rate is 6.5 percent, the amount of the adjustment to be claimed on the return is determined by dividing \$100 by 1.065, resulting in a claim of \$93.90.

If an item is repossessed, a credit may not be taken, with the exception of motor vehicle repossessions.

Special Events

When tax is included in the sales price of items sold at special events, the tax must be calculated separately. To determine the sales price without tax, the proceeds of an accounting period are divided by one (1) plus the tax rate adopted in the community where the special event was held. For example:

- Where the combined rate is 6.0%, divide by 1.060
- Where the combined rate is 6.125%, divide by 1.06125

Vending Machine Sales

Vending machine sales, such as machines that dispense soft drinks, gumballs, cigarettes or novelty toys, are taxed in the same manner as special event sales. Tax is included in the vended price. However, a seller of food and food ingredients or prepared food of \$1 or less has the option of paying tax on 150 percent of the seller's cost, including incoming freight costs. If this option is taken, the sale itself is exempt, but the taxable amount (150 percent of cost) must be reported as goods consumed on the return. If the vending machine is owned and serviced by a vending machine company, the tax is the responsibility of the vending machine company.

Returnable Containers

Deposits on returnable containers, bottles, pallets and drums are subject to tax. When containers are returned for refund of the deposit, sales tax should be refunded. Bottle deposits are exempt from tax when purchased with food stamps or Women, Infants and Children (WIC) coupons.

Food Stamps and WIC

Sales of food paid with federal food stamps or Women, Infants and Children (WIC) coupons are exempt from sales and use tax.

Videos and DVDs

Videotape and DVD rentals are taxed in the same manner as sales of tangible personal property.

Newspapers and Postage

Sales of newspapers and postage stamps are exempt. To qualify as a newspaper, publications must:

- be published daily or weekly;
- be intended for circulation among the general public;
- contain matters of general interest and must report on current events; and
- must not constitute a book when multiple issues are put together.

Purchases of regularly circulated newspapers, such as *The Salt Lake Tribune*, *Deseret Morning News*, *USA Today*, and local town papers such as the *Davis County Clipper*, are exempt from sales tax. Purchases of tabloids, such as *Enquirer*, *Star*, *Globe*, etc., are not considered newspapers and are taxable. Sales of magazines, such as *US News and World Report*, *Ladies Home Journal* and *Time*, are taxable.

Money Orders, Faxes and Photocopies

Money order fees and charges for sending or receiving faxes are not subject to sales tax. Photocopying charges are taxable.

Cigarettes and Tobacco Products

Any entity selling cigarettes and/or tobacco products must obtain a license (included on the general application form TC-69) for each selling location. Most sellers may apply online using OneStop Business Registration at **business.utah.gov/registration**. Civil penalties apply to any licensee selling to underage youth (under 19 years). Questions related to sales to underage buyers should be directed to your local health department.

The sale of cigarettes and/or tobacco products is subject to state and local sales tax. The amount subject to sales tax includes the cigarette or tobacco products tax. Tobacco products tax is due from the first purchaser within Utah. If a retail store purchases directly from an out-of-Utah source not collecting the tax, the retail store must be registered and bonded, and remit the tobacco products tax along with form TC-553 on the last day of the month following each calendar quarter.

Cigarette tax is paid by purchasing stamps from the Tax Commission, which must be affixed to each package within 72 hours of being received. Stamps are only available to registered and bonded businesses. No cigarettes may be sold without a Utah stamp on each pack. Any cigarette package without the proper stamp is subject to a \$25 penalty and confiscation.

Application and registration for tobacco products and/or stamping is also made on the general application, form TC-69.

Trade-in on Manufactured Homes

Utah Code §59-12-104 provides for an exemption of 45 percent of the sales price of any new manufactured home and 100 percent of the sales price of any used manufactured home.

When there is a trade-in, the sales price subject to the exemption is calculated as follows:

1. Subtract any trade-in amount allowed from the original sales price. This difference is the net sales price.

2. Multiply the net sales price by the exemption allowed by law (45 or 100 percent) to determine the amount of the net sales price exempt from sales tax.
3. Subtract the amount computed in step 2 from the amount in step 1. This is the portion of the net sales price subject to sales tax.

For example, if a dealer accepts a trade-in at a value of \$8,000 against the purchase of a new manufactured home valued at \$60,000, the calculation would be as follows.

Original sales price	\$60,000
Less trade-in amount	- 8,000
Net sales price	\$52,000
Portion of net sales price exempt from sales tax ($\$52,000 \times .45$)	\$23,400
Portion of net sales price subject to sales tax ($\$52,000 - \$23,400$)	\$28,600

Starting a New Business

If starting a new business, see Publication 38, Doing Business in Utah tax.utah.gov/forms/.

Forms

The following forms are available at tax.utah.gov/forms/ or by calling the Tax Commission automated forms order hot-line at (801) 297-6700 or 1-800-662-4335 ext. 6700.

TC-51	– Nexus Questionnaire
TC-55A	– Claim for Refund of Motor Vehicle Fees or Sales Tax
TC-61	– Utah Sales and Use Tax Return
TC-61 Schedule PS	– Point of Sale
TC-61 Schedule PSD	– Point of Sale Detail
TC-61DF	– Sales Tax Refund Coupon Booklet for Donated Food
TC-61E	– Municipal Energy Sales and Use Tax
TC-61F	– Tourism, Recreation, Cultural, Convention Facilities and Car Rental Tax Return
TC-61FV	– Tourism, Recreation, Cultural, Convention Facilities and Car Rental Tax Return, monthly
TC-61N	– Sales Tax Refund Request for Religious or Charitable Organizations
TC-61P	– Instructions for Filing Refund Claims for Sales Tax Paid on Pollution Control Facilities
TC-61Q	– Utah Sales Tax Sourcing Schedule
TC-61T	– Transient Room Tax Return
TC-61W	– Waste Tire Recycling Fee Return
TC-69	– Utah State Business and Tax Registration Application
TC-69B	– Additional Business Locations for a Sales Tax Account
TC-73	– Sales Tax Exemption Contract
TC-85	– Agreement for Remitting through Electronic Funds Transfer (EFT)
TC-160	– Application for Sales Tax Exemption for Religious and Charitable Institutions
TC-719	– Sales Tax Exemption Affidavit for Authorized Interstate Carriers
TC-721	– Exemption Certificate
TC-721A	– Sales and Use Tax Exemption Affidavit for Exclusive Use Outside Utah
TC-721NR	– Sales Tax Exemption Certificate for Non-Utah Retailers Accepting Delivery of Merchandise in Utah
TC-738	– Petition for Redetermination
TC-757	– Affidavit of Out-of-State Delivery
TC-762	– Lease/Rental Sales Tax Affidavit

Sales Tax Publications

The following publications are available at tax.utah.gov/forms/ or by calling the Tax Commission forms order hot-line at (801) 297-6700 or 1-800-662-4335 ext. 6700.

Pub 5	– Sales Tax Information for Motor Vehicle/Marine Dealer/Body & Repair Shops
Pub 25	– Sales and Use Tax General Information
Pub 35	– Sales Tax Guidelines for Public and Private Elementary and Secondary Schools
Pub 37	– Business Activity and Nexus in Utah
Pub 38	– Doing Business in Utah
Pub 40	– Personal Liability for Unpaid Sales, Fuel and Withholding Taxes
Pub 42	– Sales Tax Information for Sales, Installation and Repair of Tangible Personal Property Attached to Real Property
Pub 45	– Sales Tax Information for Nurseries, Florists, Landscapers and Related Industries
Pub 53	– Sales Tax Information for Health Care
Pub 54	– Sales Tax Information for Public Utilities
Pub 55	– Sales Tax Information for Restaurants
Pub 56	– Sales Tax Information for Lodging Providers
Pub 58	– Utah Interest and Penalties

Internet Information

Utah State Tax Commission Website

www.tax.utah.gov

This site has links to:

- Forms and publications
- Online sales tax return filing
- OneStop Business Registration
- PaymentExpress
- Current and past sales tax rates
- Internal Revenue Service
- Utah Counties (business license, property tax)
- Multistate Tax Compact
- Other States' Revenue Departments

State of Utah Website

www.utah.gov

This site has links to:

- Workforce Services (unemployment)
- Labor (worker's compensation)
- Commerce (corporations, DBA registration)

This publication is provided for general guidance only. It does not contain all sales or use tax laws or rules. If you need additional information, call (801) 297-2200 or

1-800-662-4335 (outside Salt Lake area), or send email to taxmaster@utah.gov.

Specific Information for Public and Private Elementary and Secondary Schools

Definition of School

School is defined as a public school district, a public elementary school or secondary school, or a private school that provides instruction for one or more grades kindergarten through 12.

Who Must Pay or Collect Sales Tax?

Public Schools

Utah law provides for a sales tax exemption on sales or rentals to a public school. However, many sales or rentals by public schools and admissions or user fees are taxable. Exceptions are noted in this publication. The school must collect tax on its taxable sales or rentals of tangible personal property to students or to the public.

To qualify as a sale made to a public school, the purchase must be made with the school's funds. A purchase does not qualify for exemption if a school employee pays for the purchase with personal funds, even if the school employee is reimbursed for the purchase by the school.

Private Schools

Sales made to or by a religious or charitable institution are exempt from sales tax if the sale is made in the conduct of the institution's regular functions or activities. To qualify for this exemption, a school must qualify under section 501(c)(3) of the Internal Revenue Code and it must obtain a sales tax exemption number from the Tax Commission.

A seller must collect sales tax on purchases by a qualified 501(c)(3) private school unless the school presents the seller with a current exemption certificate, and:

1. the purchase totals \$1,000 or more, or
2. the purchase, regardless of amount, is made pursuant to a contract between the seller and the school, or
3. the purchase is for public utilities.

A school may apply for a refund directly from the Tax Commission for qualifying purchases on which the seller collects sales tax. Applications for refunds may not be submitted more frequently than once each month.

Private schools which do not qualify as 501(c)(3) organizations are eligible for the sales tax exemptions pertaining to fundraisers, sales of food, educational supplies and materials, transportation and clothing as outlined in this publication. Such private schools must pay sales tax on non-exempt rentals and purchases of tangible personal property (such as construction materials) and collect sales tax on non-exempt sales.

Exemption Certificate

All qualifying tax exempt purchases made by private schools must be supported by a completed and signed Tax Commission form TC-721, Exemption Certificate. The school's assigned sales tax number must be entered on the form.

For public schools, a completed TC-721, purchase order or school district check may be used to evidence the exemption.

PTA

Charitable organizations may purchase and sell items tax free when the transactions are made in the conduct of the organization's regular functions. The Parent Teacher Association is a charitable 501(c)(3) organization whose purchases and sales are exempt from sales tax when made in the conduct of their charitable functions and activities serving Utah's public schools.

The PTA's sales tax exemption does not extend to a third party business that sells items through the PTA, even if the PTA receives some financial benefit from the sales.

Sales Tax License

All sellers required to collect sales tax must have a sales tax license issued by the Tax Commission. The Tax Commission recommends a school district obtain the tax license and report all sales by schools within the district. However, each school engaging in taxable sales may obtain its own tax license. A sales tax license can be applied for by filing form TC-69, Utah State Business and Tax Registration Application, or by applying online using OneStop Business Registration (OSBR) at <https://secure.utah.gov/osbr/user>. Government entities cannot apply using OSBR.

Taxable Transactions

The following are examples of transactions subject to sales tax.

- Sales of yearbooks, student directories, atlases, day planners and spirit packs.
- School supplies, i.e., paper, pens, paper clips, staples, etc.
- Sales from concessions stands.
- Admissions to swimming pools and charges to the public for the rental of towels, equipment or lockers (if the lockers are tangible personal property). However, charges for swimming or diving lessons are not subject to tax.
- Sales of items from a vending machine by private sellers. If the vending machine is operated by an outside seller who pays the school a commission or fee for placing the machine in the school, that seller is responsible for reporting and remitting the tax on the vending machine sales.
- Charges for school pictures. If an outside photographer sells the pictures and collects payment, the photographer is responsible for collecting and remitting the sales tax on these transactions.
- Sales of supplies or rental of school equipment for community education classes.
- Book sales from outside sellers. Group orders placed through the school for individual students are taxable. When the school places the order with the bookseller and pays with school funds, the school must collect sales tax from the student and remit the tax to the Tax Commission. Alternatively, if individual orders and payments are merely collected by the school and forwarded to the bookseller, the bookseller is required to remit the sales tax to the Tax Commission.
- Sales of items prepared, produced or manufactured by the students for sale to other students or the public. For example, items manufactured for sale by students in a junior achievement program or in a special class are taxable. The raw materials used as component parts or ingredients of the final taxable product may be purchased by the student or student sponsor tax free. However, use of the exemption requires the purchaser to obtain a sales tax license and to file sales tax returns.

Non-taxable Transactions

The following are examples of transactions that are not taxable.

- Sales of textbooks, textbook rental fees, laboratory fees, laboratory supplies, and other educational supplies required and sold to students by the school.
- Charges for use of the school's copy machine by students where the copies are for use in classes or class projects.
- Sales of school uniforms required by private or parochial schools and sold by the schools are exempt. Uniforms purchased directly from an outside seller are subject to sales tax.
- Amounts charged, collected and retained by the school for admissions to athletic events, school dances, school plays or other school related activities.
- Amounts charged by the school and passed through to a nonprofit organization or association authorized by a school board or governing body of a private school to organize and direct a competitive secondary school activity.
- Participation or sign up fees for drill team, cheerleading, band, athletics and other student activities. However, if the fee includes purchase or rental of non-exempt clothing or equipment, those sales and rentals are subject to sales tax.
- Sales or rentals of safety equipment, fees to recondition safety equipment, or sales of clothing a student is specifically required to wear as a condition of participation in a school-related event or activity and is not readily adaptable to general or continued use to replace ordinary clothing. If the fee for clothing and equipment can be waived under Utah fee waiver rules, it is exempt. In cases where the fee covers both non-taxable participation fees and taxable sales or rentals, the taxable portions must be separately stated or the entire amount is subject to tax.
- Transportation charges for official school activities.
- Fees charged to students to participate in athletic clinics or cheerleading clinics.
- Fines charged for overdue library books.
- Charges for advertisements in school publications.
- Charges to parents for use of the school-operated nursery taught by high school students under the supervision of a faculty member.
- Charges for parking permits.
- Charges for class schedule change fees.
- Fund-raising sales made by public or private elementary or secondary schools or their students are exempt if the purpose of raising funds is to purchase equipment or materials, or to provide transportation. To qualify for the exemption, the activity must meet all of the following conditions:
 1. The activity must be a part of an officially sanctioned school activity conducted in accordance with a formal policy adopted by the school or district governing the authorization and supervision of fund-raising activities;
 2. The funds may not be used to directly or indirectly compensate an individual teacher or other personnel; and
 3. The revenues from the fund-raiser must be deposited in a dedicated account controlled by the school or district.
- The sale of coupon books (e.g. Happenings books) by students or school organizations.
- Sales of food, food ingredients, or prepared food served by public and private elementary and secondary schools if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals.
- Sales of food, food ingredients, or prepared food served by qualified religious or charitable institutions if the meals are not available to the general public, including prepaid meals that are part of a student meal plan.
- Food sales by the school from vending machines owned or leased and operated by the school if the proceeds from the sales are deposited into the school or district lunch or meal fund.
- Sales of discount cards by a school to students that enable the students to make purchases from an outside seller at a discount. If the discount card is sold by the seller offering the discount, then the sale of the card is taxable.

Purchases of Construction Materials by Public Schools

Construction materials purchased by or on behalf of public school systems are exempt from sales tax if the construction materials are clearly identified and installed or converted to real property owned by the institution.